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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,187	07/19/2001	Thomas E. Creamer	BOC9-2000-0059 (194)	1510
40987	7590	03/28/2005	EXAMINER	
AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188			NGUYEN, BRIAN D	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. ✓ 09/910,187	Applicant(s) CREAMER ET AL.	
	Examiner Brian D Nguyen	Art Unit 2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the application filed on 7/19/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/29/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16-20 and 36-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 16, 17, 36, and 37 recite the limitation "said recipient" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 18 and 38, line 2, "at least one other recipient" is unclear because no recipient has been mentioned before.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Bogard (6,757,365).

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Regarding claim 1, Bogard discloses an instant message (IM) communication method comprising the steps of: inserting in an IM a voice communications identifier, transmitting the IM to a recipient; and, responsive to the recipient selecting the voice communications identifier, establishing a voice communications link with the recipient (see col. 1, lines 8-11, 39-44, & 62-67 and col. 2, lines 1-25).

Regarding claim 2, Bogard discloses inserting in the IM a selectable symbol denoting voice communication availability (see, for example, symbol 104 in figure 1).

Regarding claim 3, Bogard discloses inserting in the IM a reference to a sender of the IM; and, embedding computer program code in the IM, wherein the computer program code is configured to establish a voice communications link with the sender (see col. 6, lines 10-30 and col. 8, lines 25-44).

Regarding claim 4, Bogard discloses responsive to the recipient selecting the voice communications identifier, executing the embedded computer program code in order to establish a voice communications link with the sender (see col. 8, lines 25-44).

Regarding claim 5, Bogard discloses responsive to the recipient selecting the voice communications identifier, determining a link address for the sender based on the reference, and executing the embedded computer program code in order to establish a voice communications link with the sender according to the determined link address (see col. 8, lines 25-44 and figure 1 where the receiver can click on symbol 104 to establish a voice communication).

Regarding claims 6-9, Bogard discloses the link address is a telephone number or IP address and the call is established through the internet network 306 or PSTN 304 (see figure 3).

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Note that the hypertext link can be a telephone number if the call is established through a PSTN or an IP address if the call is established through the Internet).

Regarding claims 10-20, claims 10-20 are method claims that have substantially the same limitations as method claims 1-9 except that the method claims 1-9 related to a sender site while the method claims 10-20 related to the receiver site. Therefore, they are subject to the same rejection.

Regarding claims 21-29, claims 21-29 are machine-readable storage claims that have substantially the same limitations as the respective method claims 1-9. Therefore, they are subject to the same rejection.

Regarding claims 30-40, claims 30-40 are machine-readable storage claims that have substantially the same limitations as the respective method claims 10-20. Therefore, they are subject to the same rejection.

Regarding claims 41-43, claims 41-43 are article of manufacture claims that have substantially the same limitations as claims 1, 3, 8, and 9. Therefore, they are subject to the same rejection.

Regarding claim 44, claim 44 is an apparatus claim that has substantially the same limitation as the respective method claim 10. Therefore, it is subject to the same rejection.

5. Claims 1-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Lang et al (6,694,007).

Regarding claims 1-44, Lang discloses the use of instant message to establish a voice communication between customers where the call can be established through a PSTN or the internet (see figure 1 where both PSTN and the Internet are used; col. 1, lines 16-19, col. 2, lines

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5-22; and all the claims). Note that for simplicity, the steps of the claims are not repeated in Lang's rejection.

Conclusion

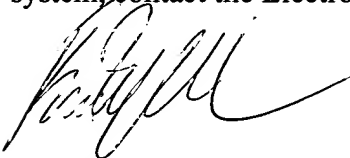
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fukuyama et al (5,483,352), Carey et al (6,714,793), and Liversidge et al (2002/0076025).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (571) 272-3084. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



3/14/05

BRIAN NGUYEN
REGISTERED EXAMINER